

ISABELLA COUNTY TRIAL COURT -COLLECTIONS POLICY-

Objective: To effectively and expeditiously receive and receipt court ordered payments of offenders.

1. Presiding Judge – At the Time of Plea

In accordance with MCR 1.110, the presiding judge shall inform the offender at plea of the standard amounts that are usually ordered for offenders and that the offender should be prepared to pay these amounts in total the day of sentencing. If the offender indicates that they would not be able to pay the ordered amounts, they should be instructed to liquidate luxury possessions such as snowmobiles, boats, motorcycles, stereos, etc. The proceeds are to be utilized to pay the court ordered amounts. Payment options shall not be discussed in the courtroom and the defendant shall be directed to the collection officer where they shall be required to complete an Affidavit and Defendant's Financial Statement.

2. Probation Agent/Officer – Pre-sentence Investigation Reports

During the pre-sentence investigation interview with the adult probation officer, juvenile probation officer or Department of Corrections agent, they shall reiterate with the offender the order to pay the court obligations in full at the time of sentencing. The agent/officer shall attempt to verify the offender's income, assets and liabilities which will be noted in the report. The agent/officer shall make a recommendation to the court of assessment of fines and costs based on the defendant's ability to pay. A lack of ability to pay the ordered monies at the time of sentencing will also be noted in the report. The offender shall additionally be informed that if an ability to pay the ordered amounts at the time of sentencing exists but is not complied with, then incarceration or sanctions may be imposed.

If there is an inability to pay the amounts in full at the time of sentencing and indigence has been determined, then there shall be a recommendation of community service work or jail time in lieu of monetary payment. This should happen in rare instances.

The probation agent shall also, during the pre-sentence investigation, obtain the following information:

- a. Offender's current address
- b. Offender's current telephone number or cell number
- c. Social security number
- d. Driver's license number
- e. Employer name, address and telephone number
- f. Next of kin's name, address and telephone number
- g. Copy of offender's most recent pay stub and/or most recent federal income tax return if unable to pay in full day of sentencing
- h. Determine if the defendant has any unpaid fines and costs or child support obligations

This information shall be provided to the collection clerk should the defendant fail to pay in full the day of sentencing or make payment plan arrangements. In addition, this information should be verified each time the offender has an appointment with an agent/officer or makes a payment at the business office.

3. Post-sentence

The collection clerk shall provide a current printout of the balances due of all offenders on probation through the Department of Corrections on the first working day of each month. Probation agents shall review the printout each month and address the payments with offenders under their supervision. Offenders failing to pay the required payment amounts who are determined to have an ability to pay will be set for a show cause hearing on the next available motion day or ordered to serve jail time which was held in abeyance per issuance of an amended order of probation. In the alternative, the collection clerk shall issue a bench warrant for the defendant's arrest.

Offenders will be informed of the following available methods of payment:

- a. Credit cards by calling GPS at 888-604-7888 7 days/24 hours; cards accepted are Discover, Visa, MasterCard, American Express and Diners Club International
- b. Western Union by calling 800-634-3422 or online at www.westernunion.com
- c. Cash
- d. Check
- e. Voluntary income withholding
- f. Money orders
- g. Travelers checks
- h. Payment plan for those who qualify

Probation departments shall utilize their unit secretary to determine outstanding amounts due and payments made. This information will be clearly set forth in the register of action in each case.

Offenders whose probation has been completed with the exception of paying court ordered monies shall not be discharged from probation until the collection officer and collection clerk have exhausted all means of collection. If the offender is deemed uncollectible, the collection clerk shall submit such information to the sentencing judge for a determination of an unsatisfactory discharge, additional community service work or jail.

4. Tickets

When there is an admission of responsibility tickets are to be paid within the fourteen (14) day period the offender is given at the time of issuance of the citation. Extensions for payments of tickets shall only be granted by the collection officer or collection clerk. If an offender calls and states that they cannot pay within the fourteen days, the offender should be instructed that an extension will only be granted by completing the Affidavit and Defendant's Financial Statement and appearing before the collection officer. If the court

receives an admission of responsibility, guilty plea or finds the defendant responsible and a judgment is rendered, the offender will be required to pay in full immediately or must complete the Affidavit and Defendant's Financial Statement and meet with the collection officer for a possible payment plan.

5. Collection Process

a. Reporting Probation and Department of Corrections

The court instructs at time of plea that payment is due the day of sentencing. If a determination is made that a defendant is indigent, additional community service work or jail time shall be ordered.

A payment plan shall be set up if requested by an offender if they qualify and prove an inability to pay the day of sentencing. The collection officer shall determine an appropriate installment agreement stressing to the defendant that missed payments will result in progressively more severe sanctions. If the collection officer agrees to a monthly payment plan, then the collection clerk shall make note of such in the register of action and track monthly payments as a term of probation.

If monthly payments are agreed to, they shall not exceed the term of probation. As much money as possible should be collected at sentencing to minimize installment payments. If the defendant has not paid in full by the end of his/her probation, then the probationary term should be extended by the probation officer/agent.

If a defendant misses a monthly payment pursuant to a payment agreement, the collection clerk shall notify the defendant by telephone or in writing that further court action may be necessary if not brought into compliance. The collection clerk shall also notify the respective probation officer/agent so they can assist in bringing the defendant into compliance.

If the defendant shall miss one or more monthly payments pursuant to the payment plan, the collection clerk shall issue a bench warrant and bring the defendant back before the court for further sanctions.

b. Civil Infractions and Non-Reporting Probation

The court instructs at time of plea that payment is due the day of sentencing. If the plea and sentence take place the same day, the court will instruct the defendant that payment is due that day. If the defendant indicates an inability to pay the day of sentencing, the court shall direct the defendant to meet with the collection officer.

The defendant shall be instructed to complete the Affidavit and Defendant's Financial Statement so the collection officer can determine if a payment plan is necessary.

If monthly payments are agreed to, they should not exceed the term of probation. If the defendant has not paid in full by the end of his/her probation, then the probationary term, if any, should be extended.

If a defendant misses a monthly payment pursuant to a payment agreement, the collection clerk shall notify the defendant by telephone or in writing that further court action may be necessary if not brought into compliance.

If the defendant shall miss one or more monthly payments as agreed to, the collection clerk shall issue a bench warrant.

- c. After all of the above steps have been taken, the probationary period has elapsed, and upon approval of the court administrator, the court shall utilize a private collection agency. These cases shall be approved for submission to the collection agency by the court administrator who shall have an agreement with the agency for fees. The collection agency shall have six (6) months to attempt collection. During that six (6) month period the collection agency shall submit monthly reports to the court. If the collection agency is unsuccessful after six (6) months, the court administrator should act under the Write Off Policy.

6. State Prison Accounts

If a defendant is incarcerated in a state prison facility, an Order to Remit Prisoner Funds shall be completed by the collection clerk at the time of sentencing and attached to the defendant's prison account. If the case is a civil infraction or non-reporting probation matter, the collection clerk shall remit the order to the prison.

7. Probation Violation Proceedings

When a felony or misdemeanor case is placed on probation and brought before the court for a probation violation, it will be the responsibility of the probation officer/agent to report to the court any outstanding monies not paid **in all cases, regardless of probationary status**, and what steps have been taken to collect as well as the ability of the defendant to pay. The probation officer/agent can obtain this information through the electronic files or request assistance from the collection clerk.

The judge hearing the probation violation will not unsatisfactorily discharge the defendant unless all steps have been exhausted to collect outstanding monies. If it is determined that the defendant is uncollectible, the judge will determine if the defendant shall be given jail time or if the monies are to be suspended and the case closed. If the judge determines that the defendant shall stay in jail or pay fines and costs, then it will be the responsibility of the

collection clerk to track the case and the case will not be closed until completion of the jail term or money has been collected.

8. Felony/Misdemeanor Cases

It will be a condition in all felony cases that all misdemeanor cases must be paid prior to discharging the defendant from the felony file. It will be the responsibility of the probation officer/agent to check the status of all cases insuring payments have been made. The probation officer/agent may not discharge a defendant from probation who has money owing to the court.

If a defendant is placed on reporting probation, all other cases for the same defendant shall be monitored by the probation officer regardless of the charge. Payment of court ordered monies will be tracked by the collection clerk to insure compliance of all orders of the court, and information regarding payment progress will be available in the register of action.

9. Early Discharge or Transfer of Case

Offenders who have paid their court ordered obligations in full, who have satisfied all the conditions of their probation and no longer benefit from further supervision, may be recommended for early discharge from probation by the supervising probation agent/officer or compliance clerk. No cases will ordinarily be recommended for discharge prior to the offender having served at least one-half of the term of probation.

No offender will be considered for a transfer of supervision to another state prior to paying the court ordered obligations in full.

10. Department of Corrections Supervision Fees

Supervision fees are handled separately from court payments and are also required to be paid at the sentencing, but may be paid over the length of supervision. They are to be paid directly to the State of Michigan by the offender. Further requirements are addressed by MDOC policy and procedure. Failure to pay supervision fees, by itself, will not result in a show cause or a bench warrant request. (This procedure is consistent with MDOC's policies and procedures. In any instances where a conflict may arise with this procedure and MDOC's procedures, the matter will be addressed with the chief judge and court administrator.)

11. Bench Warrants

Bench warrants shall be issued by the collection clerk for non-payment of court ordered monies for all offenders who do not comply with the terms of their payment plans. This shall be the point at which all terms of in house collection have been exhausted.

12. No Probation

If an offender is ordered to make monetary payment to the court only and no other issues are involved, then the presiding judge should inform the offender that payment in full the day of sentencing will result in no probation or reporting to the compliance clerk and the case shall be closed.

13. Delinquent Minors and Neglect/Abuse Assessments

Prior to disposition of neglect/abuse matters, the Department of Human Services or Isabella County Prosecutor's Office shall provide the court with the name and address of all respondents if the information cannot be determined in the courtroom. Costs shall not be assessed to an "unknown" parent or to a parent with an "unknown" address.

Collection of costs assessed in neglect/abuse cases shall be managed by the collection officer and financial clerk located in the business office and the steps to collect these matters shall be as set forth in the "Collection Process" portion of this policy.

14. Utilization of Docket and Arraignment Lists

Courtroom clerks shall check the docket and arraignment lists on a daily basis to determine if the offender has re-entered the system with another charge. The register of action name look-up feature shall be used in determining probation status and money owing as well as pending matters or cases in warrant status. This information shall be provided to the presiding judge to assist in determining the outcome of cases.

15. Judicial Intervention

To insure a unified front to the public and to reduce redundant work for court staff, judges should be sure that something happens to defendants brought before the court regarding issues of non-payment. This is the point at which the court should use their powers to fulfill the terms of sentence by enforcing their orders by either placing the defendant in jail for a specified period of time and allowing their release upon payment in full or allowing community service work in lieu of payment of fines and costs.

This policy is effective immediately.

Dated: _____

Honorable Paul H. Chamberlain
Chief Judge